

SSB 5531 - H AMD 672

By Representative Pedersen

ADOPTED 04/21/2011

1 Strike everything after the enacting clause and insert the  
2 following:

3  
4 NEW SECTION. **Sec. 1.** The legislature recognizes that counties  
5 that host evaluation and treatment beds incur costs by providing  
6 judicial services associated with civil commitments under chapters  
7 71.05 and 71.34 RCW. Because evaluation and treatment beds are not  
8 evenly distributed across the state, these commitments frequently  
9 occur in a different county from the county in which the person was  
10 originally detained. The intent of this act is to create a process  
11 for the state to reimburse counties through the regional support  
12 networks for the counties' reasonable direct costs incurred in  
13 providing these judicial services, and to prevent the burden of these  
14 costs from falling disproportionately on the counties or regional  
15 support networks in which the commitments are most likely to occur.  
16 The legislature recognizes that the costs of judicial services may  
17 vary across the state based on different factors and conditions.

18  
19 NEW SECTION. **Sec. 2.** A new section is added to chapter 71.05 RCW  
20 to read as follows:

21 (1) A county may apply to its regional support network on a  
22 quarterly basis for reimbursement of its direct costs in providing  
23 judicial services for civil commitment cases under this chapter and  
24 chapter 71.34 RCW. The regional support network shall in turn be  
25 entitled to reimbursement from the regional support network that  
26 serves the county of residence of the individual who is the subject of

27

1 the civil commitment case. Reimbursements under this section shall be  
2 paid out of the regional support network's nonmedicaid appropriation.

3 (2) Reimbursement for judicial services shall be provided per  
4 civil commitment case at a rate to be determined based on an  
5 independent assessment of the county's actual direct costs. This  
6 assessment must be based on an average of the expenditures for  
7 judicial services within the county over the past three years. In the  
8 event that a baseline cannot be established because there is no  
9 significant history of similar cases within the county, the  
10 reimbursement rate shall be equal to eighty percent of the median  
11 reimbursement rate of counties included in the independent assessment.

12 (3) For the purposes of this section:

13 (a) "Civil commitment case" includes all judicial hearings related  
14 to a single episode of hospitalization, or less restrictive  
15 alternative detention in lieu of hospitalization, except that the  
16 filing of a petition for a one hundred eighty-day commitment under  
17 this chapter or a petition for a successive one hundred eighty-day  
18 commitment under chapter 71.34 RCW shall be considered to be a new  
19 case regardless of whether there has been a break in detention.  
20 "Civil commitment case" does not include the filing of a petition for  
21 a one hundred eighty-day commitment under this chapter on behalf of a  
22 patient at a state psychiatric hospital.

23 (b) "Judicial services" means a county's reasonable direct costs  
24 in providing prosecutor services, assigned counsel and defense  
25 services, court services, and court clerk services for civil  
26 commitment cases under this chapter and chapter 71.34 RCW.

27 (4) To the extent that resources have shared purpose, the regional  
28 support network may only reimburse counties to the extent such  
29 resources are necessary for and devoted to judicial services as  
30 described in this section.

31 (5) No filing fee may be charged or collected for any civil  
32 commitment case subject to reimbursement under this section.

33

34

1        NEW SECTION.    **Sec. 3.** A new section is added to chapter 71.05 RCW  
2 to read as follows:

3        (1) The joint legislative audit and review committee shall conduct  
4 an independent assessment of the direct costs of providing judicial  
5 services under this chapter and chapter 71.34 RCW as defined in  
6 section 2 of this act. The assessment shall include a review and  
7 analysis of the reasons for differences in costs among counties. The  
8 assessment shall be conducted for any county in which more than twenty  
9 civil commitment cases were conducted during the year prior to the  
10 study. The assessment must be completed by June 1, 2012.

11        (2) The administrative office of the courts and the department  
12 shall provide the joint legislative audit and review committee with  
13 assistance and data required to complete the assessment.

14        (3) The joint legislative audit and review committee shall present  
15 recommendations as to methods for updating the costs identified in the  
16 assessment to reflect changes over time.

17  
18        NEW SECTION.    **Sec. 4.** A new section is added to chapter 71.34 RCW  
19 to read as follows:

20        A county may apply to its regional support network for  
21 reimbursement of its direct costs in providing judicial services for  
22 civil commitment cases under this chapter, as provided in section 2 of  
23 this act.

24  
25        **Sec. 5.** RCW 71.05.110 and 1997 c 112 s 7 are each amended to read  
26 as follows:

27        Attorneys appointed for persons pursuant to this chapter shall be  
28 compensated for their services as follows: (1) The person for whom an  
29 attorney is appointed shall, if he or she is financially able pursuant  
30 to standards as to financial capability and indigency set by the  
31 superior court of the county in which the proceeding is held, bear the  
32 costs of such legal services; (2) if such person is indigent pursuant  
33 to such standards, the ~~((costs of such services shall be borne by))~~  
34 regional support network shall reimburse the county in which the

1 proceeding is held(~~(, subject however to the responsibility for costs~~  
2 ~~provided in RCW 71.05.320(2))~~) for the direct costs of such legal  
3 services, as provided in section 2 of this act.

4  
5 **Sec. 6.** RCW 71.24.160 and 2001 c 323 s 15 are each amended to  
6 read as follows:

7 The regional support networks shall make satisfactory showing to  
8 the secretary that state funds shall in no case be used to replace  
9 local funds from any source being used to finance mental health  
10 services prior to January 1, 1990. Maintenance of effort funds  
11 devoted to judicial services related to involuntary commitment  
12 reimbursed under section 2 of this act must be expended for other  
13 purposes that further treatment for mental health and chemical  
14 dependency disorders.

15  
16 **Sec. 7.** RCW 71.34.300 and 1985 c 354 s 14 are each amended to  
17 read as follows:

18 (1) The county or combination of counties is responsible for  
19 development and coordination of the evaluation and treatment program  
20 for minors, for incorporating the program into the county mental  
21 health plan, and for coordination of evaluation and treatment services  
22 and resources with the community mental health program required under  
23 chapter 71.24 RCW.

24 (2) The county shall be responsible for maintaining its support of  
25 involuntary treatment services for minors at its 1984 level, adjusted  
26 for inflation, with the department responsible for additional costs to  
27 the county resulting from this chapter. Maintenance of effort funds  
28 devoted to judicial services related to involuntary commitment  
29 reimbursed under section 2 of this act must be expended for other  
30 purposes that further treatment for mental health and chemical  
31 dependency disorders.

32  
33 **Sec. 8.** RCW 71.34.330 and 1985 c 354 s 23 are each amended to  
34 read as follows:

1 Attorneys appointed for minors under this chapter shall be  
2 compensated for their services as follows:

3 (1) Responsible others shall bear the costs of such legal services  
4 if financially able according to standards set by the court of the  
5 county in which the proceeding is held.

6 (2) If all responsible others are indigent as determined by these  
7 standards, the ~~((costs of these legal services shall be borne by))~~  
8 regional support network shall reimburse the county in which the  
9 proceeding is held for the direct costs of such legal services, as  
10 provided in section 2 of this act.

11  
12 **Sec. 9.** RCW 71.05.230 and 2009 c 217 s 2 and 2009 c 293 s 3 are  
13 each reenacted and amended to read as follows:

14 A person detained for seventy-two hour evaluation and treatment  
15 may be detained for not more than fourteen additional days of  
16 involuntary intensive treatment or ninety additional days of a less  
17 restrictive alternative to involuntary intensive treatment. ~~((There  
18 shall be no fee for filing petitions for fourteen days of involuntary  
19 intensive treatment.))~~ A petition may only be filed if the following  
20 conditions are met:

21 (1) The professional staff of the agency or facility providing  
22 evaluation services has analyzed the person's condition and finds that  
23 the condition is caused by mental disorder and either results in a  
24 likelihood of serious harm, or results in the detained person being  
25 gravely disabled and are prepared to testify those conditions are met;  
26 and

27 (2) The person has been advised of the need for voluntary  
28 treatment and the professional staff of the facility has evidence that  
29 he or she has not in good faith volunteered; and

30 (3) The facility providing intensive treatment is certified to  
31 provide such treatment by the department; and

32 (4) The professional staff of the agency or facility or the  
33 designated mental health professional has filed a petition for  
34

1 fourteen day involuntary detention or a ninety day less restrictive  
2 alternative with the court. The petition must be signed either by:

- 3 (a) Two physicians;
- 4 (b) One physician and a mental health professional;
- 5 (c) Two psychiatric advanced registered nurse practitioners;
- 6 (d) One psychiatric advanced registered nurse practitioner and a  
7 mental health professional; or

8 (e) A physician and a psychiatric advanced registered nurse  
9 practitioner. The persons signing the petition must have examined the  
10 person. If involuntary detention is sought the petition shall state  
11 facts that support the finding that such person, as a result of mental  
12 disorder, presents a likelihood of serious harm, or is gravely  
13 disabled and that there are no less restrictive alternatives to  
14 detention in the best interest of such person or others. The petition  
15 shall state specifically that less restrictive alternative treatment  
16 was considered and specify why treatment less restrictive than  
17 detention is not appropriate. If an involuntary less restrictive  
18 alternative is sought, the petition shall state facts that support the  
19 finding that such person, as a result of mental disorder, presents a  
20 likelihood of serious harm, or is gravely disabled and shall set forth  
21 the less restrictive alternative proposed by the facility; and

22 (5) A copy of the petition has been served on the detained person,  
23 his or her attorney and his or her guardian or conservator, if any,  
24 prior to the probable cause hearing; and

25 (6) The court at the time the petition was filed and before the  
26 probable cause hearing has appointed counsel to represent such person  
27 if no other counsel has appeared; and

28 (7) The petition reflects that the person was informed of the loss  
29 of firearm rights if involuntarily committed; and

30 (8) At the conclusion of the initial commitment period, the  
31 professional staff of the agency or facility or the designated mental  
32 health professional may petition for an additional period of either  
33 ninety days of less restrictive alternative treatment or ninety days  
34 of involuntary intensive treatment as provided in RCW 71.05.290; and

1 (9) If the hospital or facility designated to provide outpatient  
2 treatment is other than the facility providing involuntary treatment,  
3 the outpatient facility so designated has agreed to assume such  
4 responsibility.

5  
6 NEW SECTION. **Sec. 10.** Except for section 3 of this act, this act  
7 takes effect July 1, 2012."

8  
9 Correct the title.

10

EFFECT: The striking amendment incorporates all House floor amendments previously adopted and in addition provides that the Joint Legislative Audit & Review Committee (JLARC), when conducting the independent assessment of the costs of judicial services, must review and analyze the reasons for differences in costs among the counties.

The previously adopted floor amendments that are included in this striker remove the provisions of the Senate bill requiring the DSHS to develop a process and rate of reimbursement for counties for the costs of judicial services in commitment cases and instead provide that:

- A county may apply for reimbursement for its direct costs in providing judicial services for commitment cases from its regional support network (RSN) on a quarterly basis. Commitment cases do not include 180-day recommitment cases filed on behalf of state psychiatric hospital patients.
- The RSN must pay for reimbursements to counties out of its non-Medicaid appropriation and the RSN may in turn seek reimbursement from the RSN that serves the county of residence of the individual who is the subject of the commitment case.
- The reimbursement rate must be based on an independent assessment of the county's actual direct costs. The JLARC must conduct the independent assessment for any county in which more than 20 commitment cases were conducted in the prior year and recommend a method for updating the costs to reflect changes over time. In counties where there is no significant history of cases, the reimbursement rate must be 80 percent of the median reimbursement rate of counties included in the independent assessment.

--- END ---